

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19760
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff decision to change the property tax reduction benefit for 2006. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

[Redacted] (petitioner) filed an application for a property tax reduction benefit on April 4, 2006. During review of that application and the supporting documents, the information was compared with federal and state records. The staff identified income disbursed from a pension that had not been included in the income listed in the application.

The staff sent the petitioner a letter advising her that her income total for the purpose of the property tax reduction benefit was going to be increased to include the nontaxable portion of the retirement benefit. The petitioner protested the intended action that would decrease her benefit. The file was transferred to the Legal/Tax Policy Division for administrative review.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit program is available to certain qualifying individuals throughout the state. The benefit is in the form of payment of all or a portion of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax.

The amount of property tax reduction depends on income--the greater the income, the smaller the benefit. However, income is defined differently for the property tax reduction benefit program

than it is described in the income tax code. Income for property tax reduction benefit purposes is defined in Idaho Code § 63-701(5):

(5) **"Income" means the sum of federal adjusted gross income** as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) **The nontaxable amount of any individual retirement account, pension or annuity**, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding any return of principal paid by the recipient of an annuity and excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax

commission in such form as the county assessor, board of equalization or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W2 and 1099. (Emphasis added.)

The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. The nontaxable portion of individual retirement accounts, pensions, or annuities are specifically required to be included in income to determine the benefit amount a qualified applicant is to receive.

In her letter of appeal, the petitioner said the nontaxable portion of her PERSI pension was the monetary value for health insurance that was part of her pension benefit. No other information was received in support of accepting the application as filed.

When contacted by the State Tax Commission, the staff at PERSI stated the money reported in Box five is not the monetary value of health insurance; it is the nontaxable portion of the petitioner's retirement. (The tax had been paid on a portion of the petitioner's 2005 retirement at the time the income was earned. In July 1983, the PERSI retirement system changed from an after tax system to a pre tax system. Since 1983, the tax is paid on the retirement when it is received.)

The petitioner's PERSI retirement consists of both taxable and nontaxable contributions. By definition in Idaho Code § 63-701(5), the nontaxable portion of the petitioner's pension must be included in her income for the purpose of the property tax reduction benefit.

The petitioner's application showed federal adjusted gross income of \$16,069 and social security of \$8,645 reduced by medical expenses of \$4,379. When the nontaxable portion of the petitioner's pension is added to that income, the petitioner's 2005 net income for determining the amount of their property tax reduction benefit is \$20,561. The petitioner qualifies for a property tax reduction benefit of an amount not to exceed \$660 rather than the \$690 shown in the application as submitted.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction benefit applicant. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff to change the property tax reduction benefit is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]
[REDACTED]

Receipt No.
